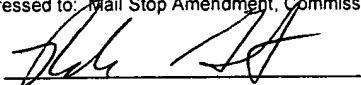




Docket No.: E0295.70106US00  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Yao Wang et al.  
Serial No.: 09/533,409  
Confirmation No.: 8616  
Filed: March 22, 2000  
For: METHOD AND APPARATUS FOR PROVIDING ADDITIONAL  
RESOURCES FOR A HOST COMPUTER  
Examiner: A. M. Mirza  
Art Unit: 2145

<b>Certificate of Mailing Under 37 CFR 1.8(a)</b>	
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
Dated: <u>10/26/06</u>	

**REQUEST FOR RECONSIDERTION**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**REMARKS**

In response to the Office Action mailed July 27, 2006, Applicants respectfully request reconsideration. To further the prosecution of this application, each of the rejections set forth in the Office Action is addressed below. The application as presented is believed to be in condition for allowance.

Initially, Applicants thank Examiner Mirza and Examiner Cardone for the courtesies extended during the telephone interview of October 19, 2006 with Applicants' representatives Richard F. Giunta (Reg. No. 36,149) and Scott J. Gerwin (Reg. No. 57,866). The substance of the interview is summarized herein.

### Double Patenting Rejection

The Office Action rejects claim(s) 1-61 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 7, 9 and 16 of U.S. Patent No. 6,898,727. Applicants submit herewith a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) to overcome this rejection. Accordingly, withdrawal of the rejection of claims 1-61 is respectfully requested.

### Rejections Under 35 U.S.C. §103

The Office Action rejects claims 1-61 under 35 U.S.C. §103(a) as purportedly being obvious over Wahl (6,324,654) in view of Miskowiec (5,915,095). Applicants respectfully traverse this rejection.

During the telephone interview, Applicants discussed the assertion in the Office Action that Miskowiec teaches automatically configuring a second computer to provide resources for performing a task in response to a decrease in performance of a first host computer.

Applicants explained to the Examiners that Miskowiec discloses a system having a plurality of servers that are pre-configured to run a common application. A control circuit receives a request to run the common application, determines which of the plurality of servers should run the common application in response to the request based on measured characteristics of the servers (e.g., processing capacity, memory capacity, current number of network nodes being serviced, and current number of common application request being serviced), and instructs the selected server to handle the request.

Applicants pointed out that in Miskowiec, all of the servers in the system are pre-configured to run the common application and the control circuit merely selects one of the pre-configured servers to handle the request. Miskowiec does not disclose automatically configuring servers. Rather, Miskowiec discloses balancing requests among a plurality of pre-configured servers.

The Examiners agreed that the system of Miskowiec uses only servers that are preconfigured to run an application and agreed that Miskowiec does not disclose the automatic configuration of a server.

In view of this understanding of Miskowiec, the Examiners agreed to withdraw the rejection of claims 1-61 under 35 U.S.C. §103(a) as purportedly being obvious over Wahl in view of Miskowiec. Accordingly, it is respectfully requested that this rejection be withdrawn.

**CONCLUSION**

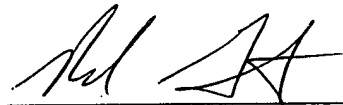
A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Dated: October 26, 2006

Respectfully submitted,

By:



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